IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINETEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 2022 of 2005

Between:

P.G. Manaiah, S/o Beeraiah,
R/o Muddaipet Village, Pulkal Mandal,

Medak District, A.P.

..... PETITIONER

AND

1. The Commissioner of Panchayath Raj,

Hyderguda, Hyderabad.

2. The District Collector (P.R) Medak District,

at Sangareddy.

3. The District Panchayat Officer,

Medak District at Sangareddy.

4. Divisional Panchayath Officer,

Medak at Medak.

...RESPONDENTS

* * *

ORDER:

This writ petition has been filed by P.G.Manaiah with a prayer to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in removing the petitioner from the post of Sarpanch, Muddaipet Gram Panchayat, Pulkal Mandal, Medak District, on the allegation of misappropriation of funds, as illegal, arbitrary and violative of principles of natural justice.

2. The petitioner is elected Sarpanch of Muddaipet Gram Panchayat, Pulkal Mandal, Medak District. The Divisional Panchayat Officer, Medak, issued notices to the petitioner vide Notice No.84/2004/A2, dated 23.07.2003 and on 05.09.2003 for verification of records in respect of the works done by him. Since the petitioner has failed to give any explanation to the show cause notice, the Divisional Panchayat Officer issued proceedings withdrawing the cheque drawing power of the petitioner. Thereafter, the District Collector issued show cause notice for removal of the petitioner from the post of Sarpanch on the ground of misappropriation of certain funds. The petitioner did not choose to give any explanation to the said show cause notice. Thereafter, the District Collector proceeded to pass final orders removing the petitioner from the post of Sarpanch under proceedings dated 01.09.2004. The petitioner challenged the said proceedings by filing an appeal before the Commissioner of Panchayat Raj, Hyderabad. The said appeal ended in dismissal. Hence, the writ petition.

3. Learned counsel for the petitioner submits that the petitioner does not know English and therefore, he was not in a position to know the charges levelled against him. He further submits that the appellate authority has not considered the grounds of appeal properly and thereby erred in dismissing the appeal.

4. Learned Government Pleader for Panchayat Raj and Rural Development submits that the petitioner failed to give explanation to the show cause notice issued by the Divisional Panchayat Officer with regard to withdrawal of cheque drawing power and also to the show cause notice issued by the District Collector for his removal on the ground of misappropriation of certain funds.

5. The District Collector issued show cause notice dated 19.7.2004 to the petitioner in exercise of powers under sub-section 1 of Section 249 of A.P. Panchayat Raj Act, calling for his explanation as to why he shall not be removed from the post of sarpanch for not accounting Rs.56,000/- which he withdrew under SGR funds. The show cause notice is in 'Telugu'. The factual aspect of petitioner receiving show cause notice is not in dispute. Indeed, the petitioner did not choose to make any representation before the District Collector, who issued show cause notice, disputing the charges levelled against him. Therefore, the District Collector cannot be found fault for passing the order removing the petitioner from the post of Sarpanch.

6. The other grievance of the petitioner is that the appellate authority has not considered the grounds of appeal in right perspective and thereby erred in dismissing the appeal. Learned counsel refers the ground of appeal wherein the petitioner has taken plea that measurement book indicates the works turned out by the petitioner. This plea the petitioner would have taken before the District Collector whom could have verified measurement book to appreciate the contention of the petitioner. The petitioner having not placed any material before the District Collector to controvert the charges levelled against him, cannot be permitted to say that the appellate authority has not considered entries in the measurement book. Therefore, I do not see any flaw in the order passed by the District Collector as well as the Commissioner of Panchayat Raj, Hyderabad.

7. Accordingly, the writ petition is devoid of merits and is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Date: 19th September 2005.

BSB